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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/799,423

03/12/2004

David Ray Burritt

403118-A-01-US (Burritt)

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EXAMINER

RICHER, AARON M

ART UNIT

PAPER NUMBER

2628

MAIL DATE

DELIVERY MODE

08/03/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/799,423	<b>Applicant(s)</b> BURRITT ET AL.	
	<b>Examiner</b> AARON M. RICHER	<b>Art Unit</b> 2628	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-7 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20100307, 20100411</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed April 12, 2010 have been fully considered but they are not persuasive. Applicant's arguments with respect to claims 2-7 and 16-21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 16-21 recite a computer-readable medium, which is not explicitly defined by the claim or the specification. The broadest reasonable interpretation of such a medium would include signals that are computer-readable. Regarding a computer program product as a signal, see MPEP 2106 which states:

For example, a claim reciting only a musical composition, literary work, compilation of data, >signal,< or legal document (e.g., an insurance policy) per se does not appear to be a process, machine, manufacture, or composition of matter. See, e.g., *In re Nuijten*, Docket no. 2006-1371 (Fed. Cir. Sept. 20, 2007) (slip. op. at 18) ("A transitory, propagating signal like Nuijten's is not a process, machine, manufacture, or composition of matter." ... Thus, such a signal cannot be patentable subject matter. ").

If applicant would like to only claim statutory embodiments of the invention, it is suggested that applicant state that the medium of the claim is "non-transitory" in order to exclude signal embodiments.

### ***Claim Rejections - 35 USC § 103***

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-7 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (U.S. Patent 6,628,644) in view of Mize (U.S. Publication 2003/0095650).

7. As to claims 2 and 16, Nelson discloses a method comprising the steps of:

receiving by a telephone set telecommunication terminal status information via a network (fig. 1; a telephone receives calls through an IP LAN as in fig. 1; col. 2, line 45-col. 3, line 20 describe the telephone using the LAN for functions such as placing/receiving calls and caller ID);

establishing by a computer direct communication with the telephone set via the network where the computer controls a visual display separate from the telephone set (figs. 1-4; col. 4, lines 8-37; a computer interacts directly with the telephone over the

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same LAN, through a web server that exists on the phone; the computer displays a graphic of the phone on its own display); and

directly accessing the telecommunication terminal status information from the telephone set by the computer via the network (col. 7, lines 32-50; the computer user can perform any task on the phone on the computer screen instead; this includes receiving calls and the aforementioned receiving of caller ID; this is all performed via the LAN as shown in fig. 1).

Nelson does not disclose emphasizing the accessed telecommunication terminal status information using visual enhancement and displaying the emphasized visual telecommunication terminal status information on the visual display to a user of the telecommunication terminal having at least one of poor visual acuity and poor hearing. Mize, however, discloses that status information, such as caller ID, is enhanced by using large letters and a format that is compatible with a room's ambient light (p. 2, section 0019). The motivation for this is to allow a user to easily review caller ID data while performing other activities (p. 2, section 0020). It is noted that Mize does not specifically mention that the status information is presented to a user having poor vision or hearing, but it is also noted that this appears to be an intended use of the claimed invention, and further noted that the Mize invention would be well-suited to such a use since large characters are used. It would have been obvious to one skilled in the art to modify Nelson to enhance caller ID information and display the enhanced information in order to allow a user to easily review caller ID data while performing other activities as taught by Mize.

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8. As to claims 3 and 17, Nelson discloses a method wherein the telecommunication terminal status information is alert information for the telephone set (col. 2, line 45-col. 3, line 20 describe the telephone using the LAN for functions such as placing/receiving calls and caller ID; the reception of calls and/or caller ID would read on alert information).

9. As to claims 4 and 18, Mize discloses a method wherein the step of emphasizing comprises displaying the transmitted telecommunication terminal status information on the visual display in a larger format than that used to display the telecommunication terminal status information on the telephone set (p. 2, section 0019; large fonts are used, as opposed to the small LCD displays on communication terminals described at p. 1, sections 0007-0008).

10. As to claims 5 and 19, Mize discloses a method wherein the step of emphasizing comprises displaying of the transmitted telecommunication terminal status information on the visual display in different visual form (p. 2, section 0019; large fonts and colors clearly seen in ambient light are used).

11. As to claims 6 and 20, Mize discloses a different visual form of both highly visible fonts and highly visible colors (p. 2, section 0019; large fonts and colors clearly seen in ambient light are used).

12. As to claims 7 and 21, Nelson discloses generating audio information to alert a user of the telecommunication terminal to the telephone set status information (col. 7, lines 32-50; a user can answer calls after receiving them; col. 8, lines 40-47 makes clear that ringtones are transmitted over the LAN).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON M. RICHER whose telephone number is (571)272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Richer/  
Primary Examiner, Art Unit 2628  
8/2/10